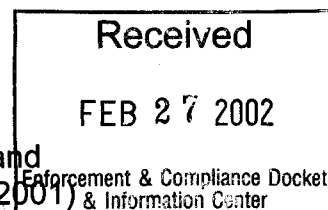


February 27, 2002

Submitted electronically: docket.oeca@epa.gov

U.S. Environmental Protection Agency
Enforcement & Compliance Docket & Information Center
2201A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460



RE: Docket No. EC-2000-007, Cross-Media Electronic Reporting and Recordkeeping Rule, 66 Federal Register 46162 (August 31, 2001)

Dear Sir or Madam:

These comments are submitted on behalf of the Consumer Specialty Products Association (CSPA) regarding the EPA proposed Cross-Media Electronic Reporting and Recordkeeping Rule (CROMERRR). CSPA is voluntary trade association composed of several hundred companies engaged in the manufacture, formulation, distribution and sale of non-agricultural pesticides, antimicrobials, detergents and cleaning compounds, industrial and automotive specialty chemicals and polishes and floor maintenance products for household, institutional and industrial uses.

EPA is seeking comment on a number of questions related to the proposed recording provisions. Among the key questions is that of "whether or not the recordkeeping provisions ...should be withdrawn and addressed in a separate rulemaking." CSPA strongly recommends that the recordkeeping provisions be withdrawn for the reasons explained below.

The proposed rule states that the recordkeeping provisions are voluntary; however, as written, the requirements would be mandatory for all who use computers to meet EPA reporting and recordkeeping requirements. The proposal implies companies do not currently electronically report environmental information to the Agency. This is a false assumption. Computers are currently used for the full range of recordkeeping and reporting requirements of environmental information. Companies are maintaining records in support of a number of EPA regulations including TSCA, FIFRA, RCRA, etc.

Therefore, those subject to EPA recordkeeping or reporting rules would have to comply with the CROMERRR requirements. This would entail adapting existing computers systems to meet CROMERRR requirements or replacing most existing software and perhaps hardware. For most companies represented by CSPA, almost all, if not all, computer systems are affected. Changing systems to meet the proposed requirements would be extremely difficult if not impossible. It is not just a matter of cost, but also a matter of far exceeding general practices in many areas without any additional benefit.

The cost of meeting the CROMERRR requirements is potentially in the millions of dollars, well in excess of the \$40,000 per facility estimated in the preamble. The overall cost for industry to meet the CROMERRR recordkeeping provisions could be well over \$40 billion, making it the most expensive EPA regulation ever promulgated.

The requirements of the Regulatory Flexibility Act and SBREFA must be complied with whenever a rule will have a significant economic impact on a substantial number of small entities. CROMERRR clearly would have such an impact; however, EPA did not comply either with RFA or SBREFA stating such considerations are not necessary because CROMERRR is voluntary. Since the proposal imposes mandatory compliance, the Agency needs to reconsider the proposal in light of the RFA and SBREFA requirements

EPA asserts that the recordkeeping provisions are needed to meet the requirements of the Government Paperwork Elimination Act (GPEA); however, this is not accurate. EPA has already made electronic reporting an option, so no additional action is necessary. GPEA directs OMB to ensure that by October, 2003, Executive Agencies provide "for the option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper" and for the use and acceptance of electronic signature, where practicable." The statute requires only that agencies provide "for the option the electronic maintenance" of information. EPA has already made electronic reporting an option, so no additional action is necessary. We suggest that EPA proceed with rulemaking to implement only the requirements necessary to "facilitate electronic reporting", as GPEA requires.

The proposed requirements are not an appropriate approach to address EPA's concerns about fraud. EPA indicates that one of the primary points of the proposed requirements is fraud prevention and detection, but the Agency's concerns on this matter are unclear. EPA has done no analysis, and provides no discussion of the risk of fraud in electronic records. The Agency has not identified any examples of fraud in the electronic environment. Nor has EPA explained why existing laws against fraud are sufficient in a paper environment but not in the electronic environment. Company computer systems are designed and maintained by information management professionals and used by business and environmental professionals. It may be that fraud is actually more difficult to perpetrate and easier to detect in an electronic environment than in the paper environment. EPA has not demonstrated that the complex criteria proposed are necessary in order to address fraud concerns.

In addition, we suggest that the Agency consider that requirements of the recently enacted E-SIGN Act (The Electronic Signatures in Global and National Commerce Act of 2000, Public Law #106-229) as part of a "Document Management System" in lieu of the complex and onerous requirements set forth in the proposal.

EPA should withdraw the recordkeeping provisions from the rest of CROMERRR since the proposal needs serious reconsideration. We suggest that the Agency consider holding additional public workshops on the proposed reporting requirements. We appreciate your consideration of our comments.

Sincerely,

Brigid D. Klein

Brigid D. Klein
Senior Counsel